

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
COUNTY OF NEWPORT**

APPROVED 10/25/10

At a meeting of the Town Council of the Town of Tiverton, County and State aforesaid, held at the Tiverton Town Hall, 343 Highland Road, on the 12th day of October 2010 A.D. at 7:00 p.m.

President Bollin opened the meeting with the Pledge of Allegiance to the Flag.

Roll Call:	Donald Bollin-President	Jay Lambert
	JoAnne Arruda-Vice President - Absent	Cecil E. Leonard
	Hannibal Costa	Edward Roderick
	Louise Durfee	

Town Administrator, James C. Goncalo and Town Solicitor, Andrew M. Teitz were also present.

Approval of Consent Agenda:

All items listed with (CA) are to be considered routine by the Town Council and will be enacted by one motion. There will be no separate discussion of these items unless a member of the Council or a member of the public so requests, in which event the item will be removed from Consent Agenda (CA) consideration and considered in its normal sequence on the agenda.

Council President Bollin read the items on the Consent Agenda.

Town Administrator, James Goncalo, requested removal of item A-2b #2, Harbor Commission minutes of August 16, 2010.

Councilor Leonard made a motion, seconded by Councilor Roderick to approve the rest of the Consent Agenda, except for those Harbor Commission minutes. Motion passed unanimously.

The Consent Agenda was as follows:

CONSENT AGENDA

A-1-Approval of Minutes of Previous Meetings:

- a. Approval of Minutes from Regular Council Meeting September 27, 2010
- b. Approval of Minutes from Executive Session Regular Council Meeting of September 27, 2010
- c. Approval of Minutes from Executive Session Regular Council Meeting of August 23, 2010-Councilor Costa abstained – Absent from Meeting
- d. Approval of Minutes from Executive Session Regular Council Meeting of July 12, 2010- Councilor Costa abstained – Absent from Meeting

A-2-Receipt of Minutes from Various Board and Commissions:

- a. Arts Council
- b. Harbor Commission (1)
- c. Municipal Buildings Feasibility Adv Committee
- d. Open Space Commission
- e. Wastewater Management Commission (2)

A-3-Correspondence

A-4-Approval of Tax Assessor Abatements

A-5-Distribution of Report of Activities for September 2010 from Kate Michaud, Planning Board

A-6-Approval of Petition for Verizon New England and Narragansett Electric for One New Joint Pole (P.20) on West DeMello Drive

a. Response From S. Berlucchi, DPW Director

b. Copy of Town Stipulations Required for Approval

A-6-Atty Michael Kelly – Petition for Change to Text of Zoning Ordinance Article XVI Section 3 and Article XIV Section 9 – Referred to Planning Board

A-7-Planning Board/DPW Director Berlucchi – Request Approval of Public Improvements Within Sakonnet Ridge Subdivision Including West Ridge Drive & Sakonnet Ridge Drive - Referred to Town Solicitor

BUSINESS BROUGHT BEFORE THE COUNCIL

Harbor Commission Minutes of August 16, 2010

Town Administrator Goncalo requested these minutes be sent back to the Harbor Commission for correction. The minutes indicate the Administrator and Fire Chief Robert Lloyd were to attend a meeting regarding the use of the patrol boat, both were unaware they had to attend, was communicated to the Harbor Commission.

Councilor Leonard made a motion, seconded by Councilor Roderick to return the minutes to the Harbor Commission for correction. Motion passed unanimously.

NATIONAL FRIENDS OF LIBRARIES WEEK PROCLAMATION

Council President Bollin read the Proclamation for National Friends of Libraries Week.

NATIONAL FRIENDS OF LIBRARIES WEEK

Whereas, Friends of the Tiverton Libraries raise money that enables our library to move from good to great—providing the resources for additional programming, much needed equipment, support for children’s summer reading, and special events throughout the year;

Whereas, the work of the Friends highlights on an on-going basis the fact that our library is the cornerstone of the community providing opportunities for all to engage in the joy of life-long learning and connect with the thoughts and ideas of others from ages past to the present;

Whereas, the Friends understand the critical importance of well funded libraries and advocate to ensure that our library gets the resources it needs to provide a wide variety of services to all ages including access to print and electronic material, along with expert assistance in research, readers’ advisory, and children’s services;

Whereas, the Friends’ gift of their time and commitment to the library sets an example for all in how volunteerism leads to positive civic engagement and the betterment of our community;

Now, therefore, be it resolved that The Tiverton Town Council proclaims October 17-23, 2010, as Friends of Libraries week in Tiverton, Newport County, Rhode Island and urges everyone to join the Friends of the Library and thank them for all they do to make our library and community so much better.

BY ORDER OF THE TIVERTON TOWN COUNCIL

October 12, 2010

Donald Bollin, Town Council President

Councilor Durfee made a motion, seconded by Councilor Leonard to approve and issue the proclamation. Motion passed unanimously.

The Town Council was sitting as the Board of Licensing Commissioners:

BOARD OF LICENSING COMMISSIONERS AND PUBLIC HEARINGS:

Michael Oliveira, Oliveira Construction, Inc, 1100 G.A.R. Hwy, Somerset, Ma – Request for Street Excavator's License

Councilor Costa made a motion, seconded by Councilor Durfee to grant the request for a Street Excavator License, subject to meeting all legal requirements, to Michael Oliveira, Oliveira Construction, Inc., 1100 G.A.R. Highway, Somerset, MA. Motion passed unanimously.

APPOINTMENTS & RESIGNATIONS:

Resignation Planning Board With Regret – Steven McDonald

Councilor Durfee made a motion, seconded by Councilor Roderick to accept with regret the resignation of Steven McDonald from the Planning Board. Motion passed unanimously.

Requests for Appointments

Economic Development Commission – Edward R. Haddad, 11 Watermark Drive Unexpired Term to 6/30/2014

Town Clerk, Nancy Mello, informed the Council Mr. Haddad called, was unable to attend this Council meeting.

Councilor Durfee made a motion, seconded by Councilor Roderick to continue the request for appointment from Edward Haddad to Special Meeting October 18, 2010. Motion passed unanimously.

Planning Board – David Saurette, 45 South Avenue Available Term to Expire 6/30/2013

Council interviewed Mr. Saurette, had read the Comprehensive Plan, has worked as a developer for 15 years, construction vice president, worked with local planning boards.

Councilor Roderick made a motion, seconded by Councilor Durfee to appoint David Saurette to the Planning Board for a term to expire June 30, 2013. Motion passed unanimously.

President Bollin had previously recused himself from this item. Councilor Roderick chaired this item.

UNFINISHED BUSINESS:

Tiverton Yacht Club – Proposed Zoning Ordinance Text and Map Amendment- Continued from September 13, 2010 Meeting

a. Solicitor Draft Decision

b. Solicitor Draft Decision Option B

Acting Council President Edward Roderick asked the Town Solicitor, Andy Teitz, to give an overview of the Draft Decisions. Solicitor Teitz made clear this was not a Public Hearing. The Public Hearing closed at approximately 8:45 p.m. on August 10, 2010, which was at the High School, reconvened at 8:56 p.m. There was some discussion of the Council, sought through a straw vote some consensus, did not clearly get a consensus, including actual changes of the Zoning map as referenced in option E1-a. . Tried to draft a decision from the comments, a decision the majority of the Council might support. Town Clerk, Nancy Mello, brought to the Solicitor's attention, something Councilor Costa mentioned about changing the zone to Waterfront residential, just expanding waterfront zone across the street to the property. Option E-1b would need to be remanded to the Planning Board.

Pointing out two typographical errors on E-1-a, page 5, number 9, has a typo in the Law reference *as set forth in General Laws Section 45-20-30* should be *Section 45-24-30*. On option E-1b, there is a typo in the last sentence, the second stating of *is changed* should be removed. The sentence should be as follows. *Lot 5 on Tax Assessor's Map 6-5, Block 70 is changed from Residential (R-40) to Waterfront (W):*

Option E-1a, tried to craft a Waterfront Related Zone, left the same as far as uses and dimensions, one change calls it a Floating Zone. Specifically modified to Waterfront-Related WR Floating Zone. Any zone can be a floating zone, in the General Laws since 1991 Enabling Act under definitions. Intended to be unmapped, not only for Tiverton Yacht Club, may be other places in Town for the Waterfront related area. The First part establishes the district, use table left as submitted, the proposed column was as proposed by the Tiverton Yacht Club, the approved column as recommended by the Town Planner and the Planning Board. The District Dimensional Regulations were from the application. Other District Regulations deal with setbacks, added in the last sentence after Sakonnet River (*excluding Type 3, 4 and 5 waters as determined by CRMC or its successor agency*). Special Provisions, parking, the petitioner claimed didn't need and withdrew. Since no consensus from Council, left status quo. Should look at as a comprehensive review of parking in Town. Provided findings to support the decision.

A change from Waterfront to Floating not a substantial change. Option E1-b requires going back to the Planning Board. If you expand the map and existing WF, then it should go back to the Planning Board.

Councilor Leonard questioned the use table on page 2. Solicitor Teitz noted the approved column; saw the logic to making the beaches Special Use. Beach area is already in a waterfront zone, as it stands now is a special use permit. Councilor Durfee noted it was fair to say only talking about shrinking the district for one parcel. Solicitor Teitz did not think the Floating Zone was a lynch pin, as he reviewed it and the Council discussed it, seems a useful zone for the Town. Councilor Roderick wanted clarification, option E-1a was only for the Yacht Club, the rest remains R-40. Solicitor Teitz noted only lot 5 would be changed to Waterfront Related. Anyone else would have to follow the same procedures to rezone any other property. Should probably say all other lots in the application are to remain R-40.

Councilor Costa felt it was important the R40 zone not be changed, like to see remain residential Option E1-a preserves as is except for the Yacht Club. Councilor Durfee noted the WR applies only to lot 5, block 70 with all other lots and times being lot 1,2,3,4,4A and 5 in block 70. In block 71 it would be lots 1,2A, 3,4,5 and 6. Councilor Leonard noted under the waterfront classification bathing beaches not allowed. Solicitor Teitz noted bathing is Special Use. Councilor Leonard questioned on page 4, first paragraph, the sentence starting with "The WR zone is herein designated as a Floating Zone and the Town Council has therefore limited its approval for the zoning map amendment to the yacht club parcel only, and will review each and every other parcel on a future case-by-case basis" Solicitor Teitz requested the part "every other parcel" be changed to "proposal". Councilor Leonard also questioned on page 6, (1), the very last word "expanded" should be struck. Councilor Leonard also wanted to be on the record his skepticism regarding CRMC reports on sea-level rise, predicted to be three to five feet over the next century.

Councilors raised several other issues with responses from Solicitor Teitz.

Councilor Durfee made a motion to adopt the draft decision as proposed with the added changes, table attached with adjustments as proposed. Councilor Lambert seconded the motion for discussion. The changes were on page 2, Bathing Beach from P to S, on page 3, Section II after the last period "NWR all other except Block 70, lots 1,2,3,4A and 4 and Block 71, lots 1,2A, 2,3,4,5 and 6 are to remain residential (R40). On page 4, first paragraph" every other parcel" to "every other proposal". On page 5, number 9, R.I. Gen Laws, Section 45-20-30 should be changed to "45-24-30". On page 6, number (1), strike out the last word "expanded".

Councilor Costa questioned if non-conforming was permitted in the area. Solicitor Teitz clarified the Yacht Club would be permitted use on lot 5, all residential would be R40, no change, just changed for lot 5.

Resident David Campbell at this time stated for the record, the opponents oppose the closing of the public comment for a change to the proposal that was not advertised.

Acting President Roderick reminded the audience the Public Hearing was closed, not an open hearing. Based on the presented draft decision allows residential without fear of being turned commercial, best decision for all. Motion passed unanimously.

President Bollin returned to the Council table at this time.

Councilor Leonard – Request of Town Administrator of Procedures for Purchasing Major Equipment Continued From September 27th Meeting

Councilor Leonard thanked the Administrator for providing a memo on the general procedure on equipment purchase. Town Administrator read the procedures.

Councilor Leonard had received inquiries regarding process, wanted voters to understand rigorous process.

Town Solicitor - Policy for Use of Facilities in Town Buildings – Continued From September 27th

a. Application Form

The Policy for Use of Facilities in Town Buildings was continued from Sept. 27th. Solicitor Teitz gave a brief synopsis. The use of Town buildings has been done on an ad-hoc basis. This policy provides priority, non-discrimination and a fee structure. Councilor Costa questioned the fee structure in the second column, Tiverton non-profits are already struggling for funds, should not charge them, give the Clerk the ability to waive. Councilor Roderick agreed, fees for non-profits should be waived. Solicitor Teitz recommended against giving discretion to the Clerk.

Councilor Costa made a motion the Policy for Use of Facilities in Town Buildings be adopted except for the fees in the second column should be zero. Councilor Durfee seconded the motion. Councilor Roderick disagreed with a Clean up/ Damage deposit, in the fourth column, something of a gray area.

Councilor Roderick amended the motion to reduce the Clean up/Damage deposit to zero for first and second groups. Councilor Leonard seconded the amended motion, which passed unanimously. The original motion passed unanimously.

NEW BUSINESS:

Chief Blakey – Request Permission to Advertise to Fill Position of Mechanic/Maintenance

Councilor Durfee made a motion, seconded by Councilor Roderick to grant permission to advertise to fill the position of Mechanic/Maintenance. Motion passed unanimously.

Wastewater Management –Request Permission to Accept the Mill Street Sewer Pumping Station and Ancillary Sewers From Developer EA Fish Co.

Wastewater Management Commission Chairman Leroy Kendricks requested permission from the Council to accept the Mill Street Sewer Pumping Station and ancillary sewers. The pump station has been up and running, satisfied with the performance.

Councilor Durfee made a motion seconded by Councilor Costa the request to accept the Mill Street Sewer Pumping Station and ancillary sewers be approved. Motion passed unanimously.

Councilor Durfee made a motion, seconded by Councilor Roderick to move H-1 out of order. Motion passed unanimously.

BIDS & REQUESTS FOR PROPOSALS:

Wastewater Management – Permission to Waive the Bidding Process to Purchase a Pre-owned Vehicle for the Superintendent

Councilor Durfee made a motion, seconded by Councilor Leonard to accept the recommendation to purchase a second hand vehicle waiving the bidding process. Motion passed unanimously.

Town Planner, Chris Spencer – Seeking Approval of Language for RFP for Tiverton Industrial Park Subdivision

Town Planner, Chris Spencer, looked at the task, made sure funding was available through Newport Chamber of Commerce. Have a concept plan for three potential sites. The funds will be secured if the RFP is approved.

Councilor Leonard made a motion, seconded by Councilor Durfee to approve the language for the RFP for the Tiverton Industrial Park Subdivision. Motion passed unanimously.

TOWN ADMINISTRATOR ANNOUNCEMENTS, COMMENTS AND QUESTIONS:

1. Life insurance quote going from 24.20 to 27.25, seeking competitive quotes.
2. Flu clinic, Oct. 21st, 18years and over, Senior Center, 9:00 a.m. to noon.
3. On 10/30, at the Senior Center, a karaoke Halloween Party, only \$5.00.
4. Two new police cruisers are in, being set up.
5. Writing a letter seeking relief or assistance with the \$360,000 cost for revaluation.
6. So. Tiverton Fire Station driveway is sinking, aprons is cracked, major expenditure, see what DPW can do, needs to be taken care of.
7. Tax sale properties, 54 remaining, down from 104.
8. Tax abatement deadline was Sept. 28th, had 79 appeals, last year 120, 15 with no action yet, 54 tax assessor reviewed, 35 denied, 19 had some relief, 5 to tax board (3 denied, 2 relief), 5 to tax board to be heard.
9. Tax collections, 50.55% of levy, improved over last year, .36% or \$125,000 ahead of last year.
10. The DPW Vacuum Truck has 144,000 miles, 8 years old, having a lot of difficulty lately, uses 1 and ½ gallons of oil per hour. Able to sweep streets between repairs, not one catch basin cleaned, had to rent a cleaner. Problem is with vacuum system.

COUNCIL ANNOUNCEMENTS, COMMENTS AND QUESTIONS:

Councilor Costa questioned the Administrator about the date of the tax sale which will be in November, tax collections which were increased over last year, and why Nonquit School was not included in the Municipal Building Facility workshop. Nonquit School is being treated as a single entity.

Councilor Durfee questioned the Town Administrator regarding the Town Treasurer giving himself a raise. Raises for Dept. Heads have not been implemented going on three years, would like to see the payroll voucher, as a Council needs to know and take a look at the policy. Councilor Roderick was also shocked, the Treasurer professes to be watching dollars, should have gotten a memo. Administrator Goncalo, at the request of the Council will look into the matter. Reminded the Council the Treasurer is an elected official does not have to account for a salary raise. Councilor Leonard recalled the increase was voted on at the Financial Town Meeting. Councilor Durfee pointed out so were raises for Dept. Heads.

Councilor Leonard inquired if the Clerk received any feedback from CRMC about the oyster farm issue. The Town Clerk received an email, which was forwarded to the Council from Jackie Mei, President of the Nanaquaket Neighborhood Association questioning the correspondence that was sent. Town Clerk provided a copy of the letter to the Council regarding the request for a meeting. Sent and emailed to CRMC and DEM. The Council did not give the Clerk any further direction.

TOWN SOLICITOR, ANNOUNCEMENTS, COMMENTS AND QUESTIONS:

A report on the Tiger Tree litigation, not necessary for Executive Session, took place in open court. Last week the criminal trial of Tiger Tree, manufacturing compost, convicted in Municipal Court, appealed to Superior Court went to trial. Town presented testimony from neighbors, Gareth Eames and an inspector from DEM that provided records and measurements. Rested case on Friday. Judge Thunberg ruled manufacturing compost is bound by our zoning ordinances. Should have transcript in three weeks.

CLOSED EXECUTIVE SESSION

Town Solicitor - Litigation – 42-46-5(a) (2)

Executive Session was not held.

ADJOURNMENT:

Councilor Costa made a motion to adjourn. Seconded by Councilor Roderick motion passed unanimously. Council adjourned at approximately 8:40 p.m.

A True Copy.

ATTEST: _____
Nancy L. Mello, Town Clerk